

and after its publication in the Davenport Gazette and Iowa State Democrat, without expense to the State.

Approved January 29, 1857.

I certify that the foregoing act was published in the Davenport State Gazette, Feb. 26, 1857.

ELIJAH SELLS,  
Secy of State.

## CHAPTER 254.

### ASSIGNMENTS.

AN ACT to amend chapter 62, title 13, of the code of Iowa, and to close up assignments for benefit of creditors.

**SECTION 1.** *Be it enacted by the General Assembly of the State of Iowa,* That in any case of assignment for the benefit of creditors, the debtor or debtors, shall annex to such assignment an inventory, under oath or affirmation, of his, her or their estate, real and personal, according to the best of his, her or their knowledge, and also a list of his, her or their creditors, and the amount of their respective demands; but such inventory shall not be conclusive as to the amount of the debtor's estate, but such assignment shall vest in the assignee or assignees the title to any property belonging to the debtor or debtors at the time of making the assignment, and comprehended within the general terms of the same. Every assignment shall be duly acknowledged and recorded in the county where the person or persons making the same reside, or where the business in respect of which the same is made, has been carried on.

**SEC. 2.** That the assignee or assignees named in such assignment shall forthwith give notice thereof by publication in some newspaper published in the county, if any, and if none, then in the nearest county thereto, which publication shall be continued at least six weeks; and shall also send a notice thereof by mail to each creditor of whom he or they shall be informed, directed to their usual place of residence, and notifying the creditors to present their

claims, under oath or affirmation, to him within three months thereafter.

**File inventory.** SEC. 3. That the assignee or assignees shall also forthwith file with the clerk of the district court of the county where such assignment shall be recorded, a true and full inventory and valuation of said estate, under oath or affirmation, so far as the same has come to his or their knowledge, and shall then and there enter into bonds to said clerk, for the use of the creditors, in double the amount of the inventory and valuation, with one or more sufficient sureties, to be approved by said clerk, for the faithful performance of said trust, and the said clerk shall give a receipt therefor, and the assignee or assignees, may thereupon proceed to perform any duty necessary to carry into effect the intention of said assignment as respects the collection of debts, and the sale of real or personal estate.

**Bond.**

**Claims.** SEC. 4. That at the expiration of three months from the time of first publishing notice as before provided, the assignee or assignees shall report and file with the clerk of the district court as aforesaid, a true and full list, under oath or affirmation, of all such creditors of the assignor or assignors, as shall have claimed to be such, with a true statement of their respective claims, and also an affidavit of publication of notice, and a list of the creditors, with their places of residence, and the date of mailing, to whom notice has been given.

**File exceptions.** SEC. 5. That any person interested as creditors or otherwise by himself or attorney, may appear within thirty days after filing such report, and file with said clerk any exceptions to the claim or demand of any creditor exhibit as aforesaid, and the clerk of said court shall forthwith cause notice thereof to be given to the creditor, which shall be served as in case of an original notice in the district court, and shall be returnable at the next term of the district court in said county; and the said district court shall, at the next term, proceed to hear the proofs and allegations of the parties in the premises, and shall render such judgment thereon as shall be just, and may allow a trial by jury thereon.

**Dividends.** SEC. 6. That at the first term of the said district court, after the expiration of the three months, as aforesaid, should

no exception be made to the claim of any creditor, or if exceptions have been made, and the same have been adjudicated and settled by the court, the said court shall order the assignee or assignees to make from time to time fair and equal dividends, (among the creditors) of the assets in his or their hands, in proportion to their claims, and as soon as may be, and within one year thereafter, to render a final account of said trust to said district court, and said court may allow such commissions and allowances to said assignee or assignees, in the final settlement as may be considered by the court just and right.

SEC. 7. That the assignee or assignees, in the execution of said trusts, shall at all times be subject to the order and supervision of the district court, and said court may by citation and attachment, compel the assignee or assignees from time to time to file reports of his or their proceedings, and of the situation and condition of the trust, and to proceed in the faithful execution of the duties required by this act and the order of such court, until a final settlement and distribution is made. Court to have supervision.

SEC. 8. That no assignment shall be declared fraudulent or void, for want of any list or inventory as provided in the first section of this act. The district court of the county may, upon application of the assignee or assignees, or any creditor, compel the appearance in person, of the debtor or debtors before such court, by citation returnable forthwith, or at the next term thereof, and by attachment to answer, under oath, such matters as may then and there be inquired of him, her or them; and such debtor or debtors may then and there be fully examined, under oath, as to the amount and situation of his, her or their estate, and the names of the creditors and amounts due to each, with their places of residence; and may compel the delivery to the assignee or assignees, of any property or estate embraced in the assignment. Not void. Citation.

SEC. 9. That the assignee or assignees shall, from time to time, file with the clerk of the district court an additional inventory and valuation of any additional property or estate which may come into his or their hands under said assignment, after the filing of the first inventory, as above provided, in the same manner as in the case of the first in- Additional inventory.

ventory, and the clerk may thereupon require additional security by bond, as upon the filing a first inventory.

**Debts not due.** SEC. 10. That any creditor may claim debts to become due as well as debts due, but on debts not due a reasonable abatement shall be made when the same are not drawing interest, and all creditors who shall not exhibit his, her or their claim, within the term of three months from the publication of notice as aforesaid, shall not participate in the dividends until after the payment in full of all claims presented within said term and allowed by the district court.

**Powers.**

SEC. 11. That any assignee or assignees as aforesaid shall have as full power and authority to dispose of all estate, real and personal assigned, as the debtor or debtors had at the time of the assignment, and to sue for and recover in the name of such assignee or assignees every thing belonging or appertaining to said estate, real or personal, and generally to act and do whatsoever the said debtor or debtors might have done in the premises, but no sale of any real estate belonging to said trust shall be made only on notice, published as in case of sales of real estate on execution, unless the district court shall order and direct otherwise.

**Death or failure of assignee.**

SEC. 12. That in case any assignee shall die before the closing of his trust, or in case any assignee shall fail or neglect for the period of twenty days after the making of any assignment, to file an inventory and valuation, and give bonds as required by this act, it shall be the duty of the county judge of the county, where such assignment may be recorded, on the application of any person intrusted as creditor or otherwise, to appoint some one or more discreet and qualified person or persons to execute the trust embraced in such assignment; and such person or persons, on giving bond with sureties as required above of the assignee or assignees named in such agreement, shall possess all the powers thereby and by this act conferred upon such assignee or assignees, and shall be subject to all the duties hereby imposed as fully as though he or they are named in the assignment; and in case any security shall be discovered to be insufficient, or on complaint before the district court it should be made to appear that any assignee or assignees are guilty of wasting or misapplying the trust estate, said district court may direct and require the giving additional

security, and may remove such assignee or assignees, and may appoint others in their stead to fulfill the duties of said trust; and such person so appointed, on giving bond, shall have full power to execute such duties, and to demand and sue for all estate in the hands of the person or persons removed, and to demand and recover the amount and value of all monies and property or estate so wasted and misapplied, which he or they may neglect or refuse to make satisfaction for, from such person or persons, and his or their sureties.

Sec. 13. That in all cases of assignment heretofore Assignments heretofore made. made, which have not been closed by final settlement, it shall be the duty of any assignee or assignees having any such trust estate in his or their hands or under their control, to report to the district court of the county where such assignee may reside, the situation and amount of such trust estate, and the creditors having claims against the same, with the amounts due to each as far as the same have come to his or their knowledge, at the first term of said court after the taking effect of this act, and in case of any neglect to file such report, any creditor or person interested in such estate may, on filing a petition to that effect with the clerk of said court, obtain a citation to such assignee or assignees, to be served as in case of an original notice, requiring such assignee or assignees to appear before said court, to show cause why such report should not be filed, and on such hearing the court may order such report, and may require such assignee or assignees to give bond, with sureties, for the faithful performance of the trust, and may fully investigate the proceedings of such assignee or assignees, in the premises, and may summon such assignee or assignees, if in the judgment of the court such removal is proper, and may appoint others to execute the same; and may make all such orders in the matter as may be proper and necessary to insure a faithful performance of the trusts, and a speedy close of the same by a final distribution and settlement of the estate as in cases above provided.

Sec. 14. This act shall take effect and be in force from and after its publication according to law.

Approved January 29, 1857.